

COMMITTEE WORKSHOP  
BEFORE THE  
CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of:	)	
	)	
Implementation of Renewables	)	Docket No.
Portfolio Standard Legislation	)	03-RPS-1078
(Public Utilities Code Sections	)	RPS
381, 383.5, 399.11 through 399.15	)	Proceeding
and 445; [SB-1038], [SB-1078]	)	
and	)	
Implementation of Renewables	)	Docket No.
Investment Plan Legislation (Public)	)	02-REN-1038
Utilities Code Sections 381, 383.5,	)	Renewable
and 445; [SB-1038]	)	Energy
_____	)	Program

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

MONDAY, APRIL 17, 2006

1:00 P.M.

Reported by:  
Sean Willard  
Contract No. 150-04-002

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

John Geesman, Presiding Member

Jackalyne Pfannenstiel, Associate Member

ADVISORS PRESENT

Melissa Jones

Timothy Tutt

STAFF PRESENT

Heather Raitt

Janet Preis

Gabriel Herrera

ALSO PRESENT

Mark Skowronski  
Solargenix

Stephen Yatsko  
San Diego Gas and Electric Company

Matthew Freedman  
The Utility Reform Network

Bill Westerfield  
PacifiCorp

Jim Squeri  
Powerex Corporation

Aaron Jones  
Golden State Power Co-op

Evelyn Lee  
Les Guliassi  
Claudia Greif  
Pacific Gas and Electric Company

ALSO PRESENT

Lenny Hochschild  
Evolution Markets, LLC

Jane Hughes Turnbull  
League of Women Voters of California  
Peninsula Energy Partners

Snuller Price  
E3  
(via teleconference)

Keoni Almeiba  
California Independent System Operator  
(via teleconference)

Gary Allen  
Southern California Edison Company  
(via teleconference)

Thom Fischer  
Toll House Energy  
(via teleconference)

Amy Smith  
San Diego Gas and Power  
(via teleconference)

Eric Cutter  
Energy & Environmental  
(via teleconference)

Chris Hilen  
Davis, Rights, Tremaine  
(via teleconference)

Bill Kelly  
California Energy Circuit  
(via teleconference)

Meredith Wingate  
CRS  
(via teleconference)

Douglas Perry  
Davenport Power  
(via teleconference)

ALSO PRESENT

John Galloway  
Union of Concerned Scientists  
(via teleconference)

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## P R O C E E D I N G S

1:00 p.m.

PRESIDING MEMBER GEESMAN: This is a workshop of the California Energy Commission Renewables Committee. The topic today is consideration of three separate guidebooks associated with our renewable portfolio standard program. These are headed to our full Commission for adoption after the workshop. We'll hear more about the calendar for that.

I'm John Geesman, the Presiding Member of the Renewables Committee. To my left Commissioner Jackalyne Pfannenstiel, the Associate Member. To my right Melissa Jones, my Staff Advisor.

Heather, you probably ought to just jump into it.

MS. RAITT: I'm Heather Raitt, the renewable energy program. And I'll be going over the summary of what we're proposing to change in the guidebooks today.

So, this is for the renewable portfolio standard and the Energy Commission's implementation of it. We're working collaboratively with the CPUC.

1           And as a brief background, the Energy  
2       Commission roles in implementing the RPS, as  
3       required by statute, are to certify facilities as  
4       eligible for the RPS and supplemental energy  
5       payments; to certify incremental geothermal  
6       production; and design and implement an RPS  
7       tracking and verification system; and to award  
8       supplemental energy payments.

9           The changes for discussion today are  
10      relative to those guidelines adopted in 2004. We  
11      can revise the guidebooks periodically to respond  
12      to public comments, lessons learned, statutory,  
13      market and regulatory developments.

14          And the guidebooks that we're talking  
15      about are the renewable portfolio standard  
16      eligibility guidebook which describes the process  
17      for seeking certification and eligibility for  
18      supplemental energy payments. It also discusses  
19      the tracking system that the Energy Commission is  
20      using in the interim until WREGIS is in place.

21          The second guidebook is a new renewable  
22      facilities guidebook, which describes the  
23      requirements to qualify for supplemental energy  
24      payments. And the process for how they are  
25      awarded.



1           And finally, the overall renewable  
2   energy program guidebook describes how the program  
3   is administered and defines program terms.

4           As I mentioned, the changes are to the  
5   versions adopted in 2004. The Energy Commission  
6   Staff initially proposed edits in November 2005.  
7   Had a workshop December 7th, a Renewables  
8   Committee workshop to discuss those changes.

9           We subsequently found that we had enough  
10   changes that merited having another workshop. And  
11   that's what this is for the April 2006 version  
12   that incorporates all changes since the adopted  
13   versions previously.

14          I'll go over the changes for each  
15   guidebook. First, the RPS eligibility guidebook.  
16   There are edits to reflect CPUC decisions  
17   including we revised the discussion of the annual  
18   procurement target and incremental procurement  
19   target to make it broader, to be more flexible to  
20   any subsequent changes of the CPUC.

21          We updated the CPUC's decisions on  
22   distributed generation, renewable energy  
23   certificates and requirements for delivery  
24   location.

25          The guidelines are revised to implement

1 AB-200, which applies to electric corporations  
2 that serve retail end-use customers outside of  
3 California and have 60,000 or fewer customer  
4 accounts in California, such as PacifiCorp or  
5 Sierra Pacific. And the guidelines are revised to  
6 show that the out-of-state delivery requirements  
7 do not apply to those electric corporations.

8 The guidelines are also revised for the  
9 implementation of incremental geothermal  
10 certification. Further specification is given on  
11 what information the applicant should submit to  
12 the Energy Commission. A new process is put in  
13 place for partial certification of incremental  
14 geothermal for the cases where a facility is  
15 partially geothermal and part of the capacity is  
16 incremental geothermal.

17 And we have a methodology for  
18 determining the amount of energy that qualifies as  
19 incremental geothermal. And that quantification  
20 is based on the operational capacity of a  
21 facility.

22 The guidelines also clarify the delivery  
23 requirements, must be documented with NERC tags to  
24 show delivery into California. Clarification of  
25 specific eligibility criteria includes when a

1 facility shuts down and restarts, that initial  
2 startup date is what we base eligibility on.

3 The guidelines clarify for biomass  
4 facilities seeking SEPs. Those facilities are  
5 subject to the California timber harvest plan  
6 requirements. The guidelines also clarify that  
7 certified and precertified facilities are subject  
8 to the same reporting requirements.

9 And that out-of-state facilities selling  
10 to publicly owned utilities are eligible for  
11 precertification. This is to recognize that in  
12 the statute one of the requirements for RPS  
13 eligibility for an out-of-state facility is that  
14 they have a contract with a retail seller. And by  
15 statute, the publicly owned utilities do not  
16 qualify as retail sellers. So we offer  
17 precertification for those cases.

18 We clarify that the certificate actually  
19 shows the facility size, fuel type, location and  
20 the owner. Was that a question? Oh, okay. And  
21 we make conforming changes to the application for  
22 certification and precertification.

23 For the interim tracking system it  
24 describes the process for how we evaluate and  
25 verify the procurement and transmit the findings

1 to the CPUC. We have a process where the bulk of  
2 the findings are transmitted to the CPUC by  
3 September of the year, to report on the previous  
4 calendar year procurement.

5 We added a form for generators to report  
6 their annual generation by month; and clarify that  
7 for retail sellers reporting generation on the  
8 QFs, those QFs do not have to separately report  
9 their annual generation.

10 Revisions to the RPS track form. This  
11 is a form where the retail sellers report their  
12 annual procurement to the Energy Commission. And  
13 in the revisions that are proposed are to identify  
14 which procurement is baseline versus incremental;  
15 to identify the NERC identification number for  
16 out-of-state facilities; and it also implements  
17 AB-200 so the delivery requirements don't apply to  
18 the utilities such as PacifiCorp and Sierra  
19 Pacific.

20 For the new renewable facility guidebook  
21 there are changes to the SEP process. The short-  
22 list data request is revised to report bid-  
23 specific data for all bids received in the  
24 solicitation. And to state that the Energy  
25 Commission may request updates to that data. And

1 to clarify that projects receiving supplemental  
2 energy payments are subject to the state's  
3 prevailing wage law.

4 The funding confirmation letter also has  
5 revisions. We have a process in place to  
6 terminate a funding confirmation letter similar or  
7 parallel to an SEP award agreement.

8 And also have added provisions where the  
9 Energy Commission asks for the milestones for the  
10 project under contract; and if those milestones  
11 are not met, the funding confirmation letter may  
12 be terminated.

13 We state that the lump sum amount of  
14 SEPs in the funding confirmation letter would be  
15 made public, but not the payment per kilowatt  
16 hour. And offer the flexibility where a funding  
17 confirmation letter could be approved conditional  
18 to a CPUC contract approval so that we could  
19 evaluate and potentially approve a SEP application  
20 prior to the CPUC approving that contract, it  
21 would be conditional upon contract approval.

22 And then not listed here is a change  
23 that the SEP award agreement would be made public  
24 upon adoption.

25 Further clarifications of SEP process,

1 the applicant and utility may request that the  
2 data be deemed confidential for a specified period  
3 of time pursuant to the Energy Commission's  
4 confidentiality regulations.

5 Made various revisions to the SEP  
6 application, including changes to reflect the 2005  
7 MPR, such as the time of delivery factor.  
8 Requested contract milestones. Included a request  
9 for the un-redacted advice letter filing.

10 And we have created a template  
11 spreadsheet to calculate the levelized bid and  
12 contract price. And there is a request that the  
13 facility explain any difference between the bid  
14 and the contract price.

15 And a minor change is we added some  
16 language to refer to the existing account where  
17 funding is also available for existing facilities.

18 For the overall renewable energy program  
19 guidebook, made clarifications to some of the  
20 definitions, and clarified that organic sludge is  
21 eligible as biomass.

22 For commercial operations the  
23 clarification there is that if a facility was  
24 initially operating and serving its own load, but  
25 then later is selling as a retail seller, then --

1 or selling to a retail seller, excuse me, the  
2 operation time while it was serving itself would  
3 still count as commercial operations.

4 And this is to say the comments today  
5 are very welcome. We're going to ask for comments  
6 from the audience initially. And then we have  
7 folks online. We'll ask for the telephone  
8 comments after we've heard from folks in the  
9 audience. We've also asked for a hard copy of  
10 comments either by mail or email. The docket  
11 number is there. And all comments received will  
12 be part of the public record.

13 Our estimated schedule is for adoption  
14 at the April 26th business meeting. And once the  
15 guidebooks are adopted, the guidelines would go  
16 into effect. And they're available on our  
17 website.

18 Thank you.

19 PRESIDING MEMBER GEESMAN: Thank you,  
20 Heather. Two questions for Mr. Herrera. And if  
21 you'll recall, it's probably now three years ago  
22 when we struggled quite a bit in these workshops  
23 with making certain that the program did not  
24 encounter commerce clause problems, as it related  
25 to eligibility of out-of-state facilities.

1 I'm looking at staff presentation on the  
2 eligibility guidebook, and as Heather went over  
3 the material she said biomass facilities seeking  
4 SEPs are subject to California timber harvest plan  
5 requirements.

6 My understanding that an out-of-state  
7 facility would, in fact, be eligible to seek SEPs.  
8 In fact, I believe that based on what I've read in  
9 the newspapers, were about to receive an  
10 application from an out-of-state facility. I  
11 don't believe it's a biomass facility.

12 But, would an out-of-state biomass  
13 facility be subject to the California timber  
14 harvest plan requirements?

15 MR. HERRERA: Would they have to comply  
16 with it? The answer to that is no. How could  
17 they qualify for SEPs in the absence of the  
18 compliance with those provisions. There are other  
19 eligible biomass fuels that an out-of-state  
20 facility could burn and still qualify for SEPs.

21 PRESIDING MEMBER GEESMAN: You need to  
22 turn your microphone on, Gabe.

23 MR. HERRERA: Is it on now?

24 PRESIDING MEMBER GEESMAN: Yeah.

25 MR. HERRERA: Okay. I just need to be



1 closer. So the statute identifies different types  
2 of biomass fuel which a facility may utilize and  
3 still receive SEP. And it breaks it up in three  
4 general categories.

5 One of them is ag bio; another deals  
6 with ranchland and mill trimming, summarizing --  
7 being generic here. And the third deals with what  
8 I consider harvesting and -- forest harvesting and  
9 timbering waste and debris. Which is procured  
10 pursuant to state law and state timberland timber  
11 harvesting requirements.

12 Now, an out-of-state facility could  
13 still use biomass that fell under the first two  
14 categories, ag waste or mill trimming and  
15 rangeland waste, and still be eligible. If they  
16 came to us and they indicated that they were using  
17 forest debris that did not comply with state law,  
18 which in fact it would not since it's located out  
19 of state, then we would have to determine that  
20 they were ineligible for SEPs.

21 This is an issue that we raised and  
22 tried to seek clarification by way of amendments  
23 to our existing statute. The proposed amendments  
24 weren't accepted. So that's an issue I think that  
25 will come before us in the future. And portions

1 of the statute may be challenged on constitutional  
2 basis.

3 PRESIDING MEMBER GEESMAN: Okay. The  
4 second question that I had is in the new renewable  
5 facilities guidebook. And as Heather indicated,  
6 projects receiving SEPs are subject to  
7 California's prevailing wage law.

8 MR. HERRERA: Right.

9 PRESIDING MEMBER GEESMAN: Now, how  
10 would we apply California's prevailing wage law to  
11 an out-of-state project seeking SEPs?

12 MR. HERRERA: Well, it's an interesting  
13 issue, and it's an issue I don't think that the  
14 Department of Industrial Relations has addressed.  
15 I think it's going to be something they will need  
16 to address in the future.

17 The way the proposed guidebook changes  
18 address the issue of prevailing wage is that the  
19 grant recipient assumes a responsibility as both  
20 the grant recipient and as an awarding body under  
21 state law.

22 And so they are required then to engage  
23 in certain things that an awarding body might  
24 otherwise be expected to perform. Providing  
25 information on prevailing wage and its application

1 in its specifications, for example, the project's  
2 construction. Insuring prevailing wage  
3 requirements are passed through from the  
4 contractor to the subcontractor. Posting  
5 information on who's subject to prevailing wage  
6 and how it applies at the job site.

7 So, this is a process that other  
8 agencies, like housing and community development,  
9 have used in order to, not on out-of-state  
10 projects, but on other facilities that are  
11 receiving funding, or other projects that receive  
12 public funding, where the agency, itself, is not  
13 contracting for the construction or the services.

14 PRESIDING MEMBER GEESMAN: Yeah, but  
15 focus on the out-of-state aspect for me. And is  
16 there some assurance you can provide that we  
17 wouldn't simply be attempting an extra-territorial  
18 application of a state statute?

19 MR. HERRERA: I think that's an issue,  
20 Commissioner Geesman, that the Department of  
21 Industrial Relations will have to address in the  
22 future. I couldn't find any decisions of  
23 prevailing wage determinations that dealt with  
24 that particular issue.

25 So, I --

1               PRESIDING MEMBER GEESMAN: But are you  
2 aware of any instances where California's  
3 prevailing wage statute has been applied outside  
4 the state?

5               MR. HERRERA: There is one situation  
6 that's related, and it deals with a state contract  
7 for the construction of a prison where certain  
8 materials were manufactured out of California and  
9 then brought into California and assembled.

10              And in that determination the Department  
11 of Industrial Relations concluded that it was --  
12 the assembling of that material in California was  
13 subject to state prevailing wage law.

14              PRESIDING MEMBER GEESMAN: Inside the  
15 state.

16              MR. HERRERA: Inside the state. It's an  
17 interesting issue. Like I say, it perhaps is not  
18 an issue that the Legislature contemplated in  
19 adopting and enacting the statute.

20              PRESIDING MEMBER GEESMAN: It would seem  
21 to me that potentially there are conflicting  
22 aspects of the statute. One, applying that the  
23 prevailing wage requirements; and two, making out-  
24 of-state projects eligible for SEPs.

25              And I take it that at least your reading

1 of the statute is it's left to us to reconcile  
2 those two potentially conflicting requirements?

3 MR. HERRERA: Well, I think it's up to  
4 the Department of Industrial Relations, which is  
5 charged with applying the prevailing wage law in a  
6 manner consistent with the Labor Code section  
7 1720. And like I say, they're not inclined to  
8 issue an advisory opinion on how this would work.

9 Once we have a generator that qualifies  
10 for SEP, it would be incumbent upon that generator  
11 or whoever applied for the grant to then seek  
12 clarification from the Department of Industrial  
13 Relations.

14 PRESIDING MEMBER GEESMAN: Okay. Any  
15 other questions up here?

16 Why don't we go to the audience then.  
17 I've been negligent in not asking for blue cards,  
18 so, of course, I have no blue cards. Actually  
19 several of you are holding up blue cards. Why  
20 don't we make use of them, then.

21 We'll go to the phone later, after we've  
22 taken the blue cards from people that are actually  
23 here. And unless anyone has a special scheduling  
24 consideration, I'm going to take these in the  
25 order that I receive them.

1 Mark Skowronski, Solargenix. First up,  
2 Mark.

3 MR. SKOWRONSKI: During the presentation  
4 there was a reference made to the lump sum payment  
5 of the SEP payment. And I was under the  
6 impression that it's paid over ten years. Could  
7 you go into the methodology and process of the way  
8 that works?

9 MS. RAITT: I can address that. What  
10 that was intended to show is the total amount of  
11 funding that would be reserved for that project.  
12 But, you're right, the actual payment would be per  
13 kilowatt hour over up to ten years.

14 MR. SKOWRONSKI: And that funding is  
15 earmarked. Could you define earmarking?

16 MS. RAITT: Well, we would plan on it;  
17 we would produce in our plan that we would have  
18 that money be set aside. But we couldn't actually  
19 encumber it until we actually entered a funding  
20 award agreement with the project after the project  
21 has achieved all of its environmental permits.

22 MR. SKOWRONSKI: There was some, with  
23 respect to financing on a renewable energy  
24 product, our lenders are asking definition of  
25 earmarking, definition of encumbering the funds.

1 They want to know whether or not the money's going  
2 to be there, say five, six, seven years from now.

3 Can you lend to the assuredness of  
4 having the money there?

5 MR. HERRERA: Well, maybe I should jump  
6 in here, Mark. The problem is is the Energy  
7 Commission is bound by CEQA to limit the type of  
8 actions it may make if those actions result in  
9 funding for a project which could have significant  
10 environmental impacts.

11 And so the guidebook's contemplated  
12 process where the Commission doesn't actually  
13 enter in or approve -- granting payment that says  
14 x number of dollars available for this project  
15 until the project has passed CEQA environmental  
16 review. And we have an EIR to be taken a look at,  
17 so, at that point, now what we're trying to do in  
18 advance of that is provide an indication that a  
19 certain amount of funds are available and will be  
20 then awarded to the facility once it gets past  
21 CEQA and environmental -- has been issued or not.

22 MR. SKOWRONSKI: I think the question,  
23 though, is past CEQA. I mean everything's set,  
24 payments are being made and then say five years  
25 down the road we're still generating, and then

1 could something happen to the funds?

2 PRESIDING MEMBER GEESMAN: Who holds the  
3 money?

4 MR. SKOWRONSKI: Who -- yeah, show me  
5 the money.

6 PRESIDING MEMBER GEESMAN: Is this an  
7 escrow account or is --

8 MR. HERRERA: No, these moneys are in an  
9 account in the State Treasury. And so  
10 theoretically the Legislature, if it chose to,  
11 could borrow money from the account. Conceivably  
12 it could use some of that money for other purpose,  
13 in which case then the Commission would need to,  
14 you know, revise its grant awards accordingly. Is  
15 that likely? I don't know,.

16 MR. SKOWRONSKI: But it would --

17 PRESIDING MEMBER GEESMAN: Do we have  
18 the statutory authority to put it anyplace other  
19 than the State Treasury?

20 MR. HERRERA: We don't have any  
21 statutory authority for anywhere but the State  
22 Treasury. The funds rest in the renewable  
23 resource trust fund, within an account in that  
24 fund. And then once we encumber the money, once  
25 we enter into a grant award, it's legally



1       encumbered for that particular project.

2               If the Legislature took that money and  
3       used it for some other purpose, I imagine there  
4       would be legal recourse by the guarantee against  
5       the Energy Commission for entering into this grant  
6       award. But our grant agreements do identify this  
7       potential for that very reason.

8               MR. SKOWRONSKI: Thank you.

9               PRESIDING MEMBER GEESMAN: I just want  
10      to make certain I understand, Gabe, that at least  
11      your reading of the statute provides us with no  
12      discretion in terms of our reliance on the State  
13      Treasury. We could not, for example, deposit  
14      funds in a third-party escrow to avoid that  
15      appropriation risk.

16              MR. HERRERA: -- no, we have no  
17      authority under the current statute that allows us  
18      to do that.

19              PRESIDING MEMBER GEESMAN: Thank you.  
20      Steve Yatsko, SDG&E.

21              MR. YATSKO: I represent the Energy and  
22      Procurement Group of SDG&E. Recently have been  
23      having a lot of conversations with Gabe about one  
24      of our contracts that we'll be making, and  
25      actually we have made an application for SEP

1 funds.

2 But like the preceding gentlemen, the  
3 threshold question really is how can developers  
4 rely on the SEP funds being there once an award  
5 has been made.

6 I refer you to section 11 of the draft  
7 SEP award agreement which says, insufficient funds  
8 in the Energy Commission's renewable resource  
9 trust fund to adequately fund this agreement is  
10 grounds for termination.

11 These developers who've been spending  
12 millions of dollars to get their projects ready  
13 for construction and completion, and at the end of  
14 the day if they can't be assured their funds are  
15 there, clearly the investors won't come forward,  
16 nor will their lenders. And it's a major problem.

17 PRESIDING MEMBER GEESMAN: It sounds,  
18 though, like from Gabe's perspective it requires a  
19 statutory fix that we don't have the ability to,  
20 under the terms of our SEP agreement, try to  
21 negotiate around that.

22 MR. YATSKO: Understand, Commissioner  
23 Geesman. I guess what I'm suggesting there needs  
24 to be some sort of fix.

25 PRESIDING MEMBER GEESMAN: Yeah. Well,

1       you certainly hit a receptive ear with us. I  
2       think a lender would have a very difficult time  
3       relying on these funds being there.

4               MR. YATSKO: Yeah. By the way, we will  
5       be filing more detailed comments by 5:00 today.  
6       Thanks.

7               PRESIDING MEMBER GEESMAN: Matt  
8       Freedman, TURN.

9               MR. FREEDMAN: Thank you, Commissioner  
10       Geesman, Commissioner Pfannenstiel. Matt Freedman  
11       here on behalf of TURN.

12              Well, my first point has been covered,  
13       but I will add just a little bit to the concern  
14       that the supplemental energy payments, as  
15       currently constructed, do not constitute a  
16       financeable source of revenue for developers.

17              I have spoken with a number of  
18       independent developers who have said pretty much  
19       categorically that they will not do a project that  
20       involves supplemental energy payments if it is  
21       part of their financing assumptions.

22              The concern, of course, is that if it's  
23       not part of a financing assumption then it's just  
24       free money that the developer doesn't actually  
25       need. We want to make sure the SEPs only cover

1 the necessary cost to develop these projects.

2 So, I urge you to seriously consider  
3 ways to take this money, to put it in a third-  
4 party escrow account or some other structural  
5 configuration that would resolve this concern.

6 Now, I understand that there's no  
7 affirmative statutory authority for the Energy  
8 Commission to do that. I don't read any  
9 affirmative prohibition on the Energy Commission  
10 doing it, either, in statute. And this Commission  
11 has exercised broad authority under the current  
12 code to develop the guidelines for the RPS program  
13 over which it has jurisdiction. And I'm not sure  
14 that anything in the Public Resources Code today  
15 prevents you from taking this step forward.

16 That said, I also think it would be  
17 helpful for the Energy Commission to request from  
18 the Legislature, as part of a public goods  
19 reauthorization for the renewable investment plan,  
20 which is currently being considered a few blocks  
21 away, to insure that that contains a provision  
22 that would satisfy everyone on this point.

23 PRESIDING MEMBER GEESMAN: I think  
24 that's well taken.

25 MR. FREEDMAN: Thank you. I do have a

1 number of other issues with respect to the SEPs  
2 that I'd like to cover.

3 First, I think we need to be clear what  
4 the goals of the SEP program are. First is we  
5 want to make sure there's certainty for all sides;  
6 there's transparency second; and third, simplicity  
7 to the extent that that's possible.

8 One problem that we have identified in  
9 the past is the issue having to do with ten-year  
10 SEP awards for contracts that extend greater than  
11 ten years in length. And we have submitted  
12 comments on this in the past. The current  
13 guidebooks do not address our concerns.

14 And would appear to leave developers  
15 hanging if they have a contract that is 15 or 20  
16 years, where the price would be above the market  
17 price referent during all of the years of the  
18 contract term.

19 By limiting payments to only ten years,  
20 if that is this Commission's intent, it would make  
21 the contract nonviable, as far as I can tell. I  
22 don't know any developer that can go forward with  
23 the expectation of only recovering its revenues  
24 over ten years, but then having to deliver at a  
25 loss for those subsequent ten years.

1           There has been a solution to this  
2       proposed over at the Public Utilities Commission.  
3       We have offered that solution up to this  
4       Commission. Either way, it has to be resolved.

5           If this Commission doesn't want to fund  
6       any contract that is greater than ten years in  
7       length, it should make that clear, although I  
8       think it would be a mistake. Because utilities  
9       can get sometimes much better deals on longer term  
10      contracts.

11          But, it needs to be addressed and  
12      spelled out. And I really hope that as this  
13      process moves forward this issue will receive more  
14      pressing consideration.

15          I think also there is some concern in  
16      the development community about the basis that the  
17      Energy Commission will use to make SEP awards; and  
18      whether the CEC will exercise its own judgment as  
19      to whether the utility has selected the proper  
20      projects as part of its evaluation in the  
21      solicitations that they conduct.

22          And if this is an attempt to have a  
23      second bite at the apple, or a re-review of the  
24      PUC's review. I would caution against that  
25      approach. I think it creates a lot of additional

1       uncertainty and unnecessary duplicative review.

2               To the extent we want this process to be  
3       straightforward and simple, we want to avoid  
4       allowing two separate agencies to review the exact  
5       same decision that's being made by the utility.  
6       Certainly that doesn't prevent this Commission  
7       from exercising its authority to adopt payment  
8       caps which is specified in the statute.

9               But if the goal is to look at the  
10       reasonableness of the entire procurement process,  
11       I would urge you to reconsider that. It will  
12       create a lot of uncertainty among the developers.

13              PRESIDING MEMBER GEESMAN: Why, from  
14       your perspective, were both agencies written into  
15       this particular aspect of the statute?

16              MR. FREEDMAN: Because the Energy  
17       Commission controls the renewable resource trust  
18       fund account. And that -- and also the Energy  
19       Commission is better suited for the task of doing  
20       accounting and verification tasks.

21              So I think that the Legislature was  
22       looking to retain those roles for the Energy  
23       Commission going forward. And to insure that the  
24       Energy Commission had a role in designing the  
25       award system for supplemental energy payments,

1 among other responsibilities it has. But not to  
2 create overlapping or conflicting jurisdiction  
3 over utility procurement processes.

4 That's my sense of it.

5 PRESIDING MEMBER GEESMAN: Yeah, I don't  
6 particularly find that objectionable, but the  
7 concept of rubber-stamp when large sums of public  
8 moneys are available is a bit hard for appointees  
9 that take an oath to subscribe to.

10 MR. FREEDMAN: I certainly understand  
11 that concern. I would just encourage you to use a  
12 light touch rather than to delve into the bowels  
13 of each decision that is made that results in such  
14 a contract. It could create a lot of  
15 complications and some unintended consequences.

16 PRESIDING MEMBER GEESMAN: Well, as I  
17 recall, you were pretty heavily involved with the  
18 true solar project review at the PUC, as well. I  
19 wonder if you would recommend a similar light  
20 touch if that project had shown up here looking  
21 for SEPs.

22 MR. FREEDMAN: Well, that is an  
23 interesting anomalous example in which --

24 PRESIDING MEMBER GEESMAN: It's the  
25 anomalous example that I'm worried about.



1                   MR. FREEDMAN: Fair enough. And I would  
2 share your concern with respect to the true solar  
3 project.

4                   As you may recall, Southern California  
5 Edison had proposed taking that money out of the  
6 emerging renewables account, which under statute  
7 is prohibited from issuing an award to this type  
8 of a project.

9                   So I think it would be easy to argue the  
10 project was dead on arrival based on the type of  
11 requests submitted and the statutory guidelines  
12 that had been laid out for such funding awards.

13                  PRESIDING MEMBER GEESMAN: I recall the  
14 comments, though, by the Public Utilities  
15 Commissioners saying that, well, they were going  
16 to throw it over to us to let us figure out if, in  
17 fact, there was such a proscription against making  
18 an award to that project.

19                  MR. FREEDMAN: Indeed, they did. And on  
20 that point I certainly disagreed with them at the  
21 time.

22                  So, I'm not suggesting that the Energy  
23 Commission should simply be a rubber-stamp and a  
24 check-writing machine. But that this Commission  
25 should be careful about establishing a whole new

1 set of review processes that might differ from  
2 those that are in place at the PUC, and force the  
3 utilities to run through many additional hoops.

4 PRESIDING MEMBER GEESMAN: Yeah, I don't  
5 disagree with that at all. But I think that if  
6 people are thinking in terms of statutory  
7 redesign, they might want to rethink the wisdom of  
8 having both agencies involved at this step of the  
9 process.

10 MR. FREEDMAN: I believe that's a fair  
11 point, Commissioner.

12 A few other items I'd like to point out.  
13 One is there is a proposal to tie SEP awards to  
14 the satisfaction of project milestones that are  
15 laid out. I think I would encourage you to be  
16 careful with that provision --

17 PRESIDING MEMBER GEESMAN: Where do you  
18 see that?

19 MR. FREEDMAN: It's part of the  
20 revisions in the -- I believe it's in the new  
21 facilities guidebook.

22 MS. RAITT: That's page 14 --

23 MR. FREEDMAN: Thank you. Starting on  
24 pages 14, I think page 15, it's the second bullet  
25 point. It says the seller does not meet project

1 milestones.

2 PRESIDING MEMBER GEESMAN: Okay.

3 MR. FREEDMAN: Our concern here is that  
4 the award might be issued; a project may go  
5 forward. But for a variety of reasons could miss  
6 one of its milestones. It would be unfortunate if  
7 that were to jeopardize 100 percent of the  
8 funding.

9 I sense from reading this that it is not  
10 an automatic disqualification; that there would be  
11 a case-by-case review. But to the extent that  
12 there is uncertainty there, it could jeopardize  
13 the ability of these projects to move forward.  
14 And perhaps there's a way to tie this to contract  
15 termination, which is more of a final step.

16 Now, I understand that you also want to  
17 be concerned about projects hanging out there  
18 forever, never getting built, and tying up needed  
19 money. And so there's got to be a way to strike a  
20 balance.

21 But I know that one caught my eye as a  
22 source of some concern. And I think it would be  
23 useful to get some feedback from the developer  
24 community to see whether that does pose any real  
25 serious problems or not.

1           PRESIDING MEMBER GEESMAN: Yeah, but  
2           from the developer perspective, I think you'd want  
3           all of your milestones to be flexible, wouldn't  
4           you?

5           MR. FREEDMAN: Sure.

6           PRESIDING MEMBER GEESMAN: Okay. So if  
7           we can anticipate that feedback, I look forward to  
8           receiving it. What else should I be looking for?

9           MR. FREEDMAN: To find out whether that  
10          jeopardizes the financeability of the SEP award.

11          PRESIDING MEMBER GEESMAN: Okay.

12          MR. FREEDMAN: That's the only issue in  
13          my mind.

14          PRESIDING MEMBER GEESMAN: Okay.

15          MR. FREEDMAN: On a different topic I'd  
16          like to thank the Commission for proposing to  
17          adopt the changes to the out-of-state facility  
18          delivery requirements that effectively moves the  
19          hand-off point between buyer and seller from  
20          inside the state to a point outside the state so  
21          long as instate delivery's ultimately  
22          demonstrated.

23                 I think that that will provide a lot of  
24          needed flexibility for utilities to do a number of  
25          transactions and increase the pool of competitors

1       that can participate in the program.

2               And then finally, on an issue that I  
3       assume will generate some controversy, the  
4       requirements having to do with the submission of  
5       bid data by the utilities. I understand from  
6       reading the guidebooks that the Commission intends  
7       to require aggregated bid data for sub MPR bids  
8       that came in in a solicitation yielding a contract  
9       that seeks SEPs.

10              I would encourage the Commission to, at  
11       a minimum, wait to disclose aggregated information  
12       until final contracts are negotiated and completed  
13       through a solicitation so that you don't have bid  
14       data being released while simultaneously you have  
15       negotiations ongoing from that same solicitation.

16              I think that that could provide  
17       difficult and counter-productive incentives in the  
18       negotiation process.

19              Perhaps there should be a delay of some  
20       specified period of time, maybe one calendar year,  
21       in order to mitigate possible negative effects.

22              PRESIDING MEMBER GEESMAN: Well, you  
23       know, these solicitations have a tendency to run  
24       on for a fairly lengthy period of time. PG&E just  
25       released last week an announcement on the Shiloh

1 project that I believe was from the 2004  
2 solicitation. SDG&E, I think, made a similar  
3 announcement from the 2004 solicitation.

4 You're suggesting that we wait until  
5 those solicitations are over, if in fact they ever  
6 do end, and then add a year to that before  
7 disclosing aggregated bid data?

8 MR. FREEDMAN: Well, first of all, the  
9 Shiloh project, I believe, was just completed its  
10 commercial operations. It's now operating, so it  
11 wasn't a contract submission. It was a facility  
12 actually going online.

13 But perhaps a way to cut this would be  
14 to say the earlier of a year after the  
15 commencement of a solicitation, or a facility  
16 being, a contract being completed, or some variant  
17 thereof, as a way to protect against premature  
18 disclosure.

19 I understand the Commission wants to  
20 provide some of this data publicly. I don't think  
21 it's necessarily a bad idea, as long as it's  
22 highly aggregated. We just want to make sure that  
23 the data release isn't too early.

24 So it could be the earlier of a  
25 contract, of a year could be the later of. But

1       some period of time that will be least likely to  
2       prejudice the negotiations that are going on.

3               PRESIDING MEMBER GEESMAN: But how do  
4       you deal with the never-ending aspect of the  
5       negotiations?

6               MR. FREEDMAN: Well, the PUC has been  
7       working to establish deadlines for the submission  
8       of contracts associated with these solicitations.  
9       And I think we're getting closer to not being on  
10      an annual cycle for starting and stopping, but  
11      maybe something on the order of a year and a half  
12      between the beginning of solicitations and the  
13      final contracts being submitted.

14              But I think if you were to tie it to the  
15      end of the solicitation, or to the submission of a  
16      request for SEP funding, which is the trigger for  
17      providing this information under the guidebook,  
18      that might be a way to have a reasonable timeline.

19              PRESIDING MEMBER GEESMAN: You still  
20      have the problem, would you not, of one project  
21      requesting SEP funds, and as I understand what our  
22      staff is contemplating, that we then release the  
23      aggregated nonSEP bids, or low MPR bids from that  
24      solicitation. Meanwhile there's still some  
25      contract negotiations outstanding.

1                   MR. FREEDMAN:  If I understand you  
2                   correctly, that is my concern.

3                   PRESIDING MEMBER GEESMAN:  Yeah, and it  
4                   seems to me at some point we need to make a choice  
5                   between being concerned either with the stragglers  
6                   in the solicitation process that, for whatever  
7                   reasons, go on and on and on and on and on, and  
8                   the possibility of a prejudicial impact.

9                   You know, I'm still, I guess from the  
10                  old fashioned TURN days where sunshine was the  
11                  best disinfectant and you wanted as much  
12                  information out in the public.  And the thought  
13                  was that it had a generally beneficial impact on  
14                  price levels.

15                 But, I'll have you that the new math,  
16                  new era, or something new must have changed all  
17                  that.

18                 But doesn't government have to make a  
19                  choice at some point as to how to proceed in order  
20                  to have a program that enjoys the confidence of  
21                  the public?

22                 MR. FREEDMAN:  Sure, which is why we're  
23                  not objecting to the release of aggregated data.  
24                  I think the question is timing.  And I'm not sure  
25                  what incremental benefit would be achieved by



1 releasing the data slightly earlier versus  
2 slightly later. And I think there is some  
3 potential incremental harm that could be  
4 experienced.

5 So all we're proposing is a minor  
6 adjustment to the proposal you have in the  
7 guidebooks today.

8 PRESIDING MEMBER GEESMAN: Well, we'll  
9 take that under consideration.

10 MR. FREEDMAN: There is another area of  
11 ambiguity. There is a requirement that's proposed  
12 for data being submitted on bids that are above  
13 the market price referent. And it's not clear  
14 whether that information is intended to be  
15 aggregated or bid-specific; in reading the  
16 guidebook, it was not obvious to me. And I would  
17 encourage the Commission to do that on an  
18 aggregated basis, as well.

19 So, those are my comments. Thank you  
20 very much.

21 PRESIDING MEMBER GEESMAN: One last  
22 question, Matt. Do you have any concern that  
23 we're potentially going to lose public support for  
24 this program if we keep so much of the information  
25 confidential, particularly price levels.

1           MR. FREEDMAN: Well, I'm sure that there  
2     is a tipping point. We certainly wouldn't want to  
3     keep too much information confidential; but I  
4     think the success of this program will be judged  
5     based on its results. And its results are  
6     megawatts that are built and costs that are put  
7     into utility rates. At the end of the day that's  
8     really what matters.

9           And if you look at what's being done in  
10    other parts of the country, other states that have  
11    RPS programs, there is pretty comparable levels of  
12    confidentiality to what we're seeing in  
13    California. There is very little experience  
14    around the country with fully transparent data  
15    from bids that have been submitted.

16          I've asked other states if it's possible  
17    to get results from utility solicitations and that  
18    data is closely guarded pretty much everywhere.

19          PRESIDING MEMBER GEESMAN: Boy, that's  
20    directly contrary to the results of the Ryan Wiser  
21    study that we had done, I think in 2004, of other  
22    utility solicitation practices around the west.

23          MR. FREEDMAN: Well, I would point to  
24    Xcel's recent solicitation in Colorado where very  
25    little information was released. PacifiCorp's

1 solicitation which was hailed as a model of  
2 renewable integrated resource plan in the  
3 northwest for which no bid data was released. And  
4 there were other examples, as well.

5 Final results are typically released,  
6 meaning who won the solicitation; what's the  
7 project; how many megawatts; when's it coming  
8 online. But actual pricing data is very hard to  
9 come by.

10 PRESIDING MEMBER GEESMAN: Okay. Thank  
11 you.

12 MR. FREEDMAN: Thank you, Commissioners.

13 PRESIDING MEMBER GEESMAN: I think we've  
14 got a fair amount of work in front of us for the  
15 Integrated Energy Policy Report Update process  
16 that we'll conduct this year.

17 Bill Westerfield, PacifiCorp.

18 MR. WESTERFIELD: Good afternoon,  
19 Commissioner Geesman, Commissioner Pfannenstiel.  
20 Bill Westerfield for PacifiCorp.

21 I have just a couple of notes or  
22 questions concerning the eligibility guidebook,  
23 concerning several ambiguities as we see them.

24 Our number one point goes to page A-16  
25 on the back of the eligibility guidebook. And

1       it's relatively minor, but it concerns question  
2       27, 29. We made a prior comment back in December  
3       to try to clarify the applicability of the form to  
4       PacifiCorp, which is a multijurisdictional  
5       utility.

6               And the first of these two boxes on  
7       question 27, the second of the two boxes which  
8       says, no if it's not, the facility is not  
9       connected to the WECC transmission system located  
10      in California, then to go to question 29 and  
11      answer all of those essentially in the  
12      affirmative.

13             If you go down to 29 and you look at the  
14      three boxes, the first of the two boxes would not  
15      apply to a multijurisdictional utility such as  
16      PacifiCorp. And so we just wanted to clarify  
17      that, indeed, we're not put in a position of  
18      having to clarify later on that we have to check  
19      all three boxes.

20             We, of course, recognize that we need to  
21      comply with the WREGIS system once it's up and  
22      running. So we had suggested that change earlier  
23      on; it didn't make it into the revisions.

24             We'll note that on question 28 it does  
25      show a disclaimer that the NERC tag requirement is

1 not applicable to PacifiCorp at third generation,  
2 so that's not a problem. It's just question 29  
3 that bothers us.

4 PRESIDING MEMBER GEESMAN: Does staff  
5 have a response, or do you want to just take this  
6 under consideration?

7 MS. RAITT: Yeah, it looks like it's a  
8 technical correction we need to make, but I'll  
9 look at it more closely.

10 MR. WESTERFIELD: Great.

11 PRESIDING MEMBER GEESMAN: Okay, Bill,  
12 you're ahead so far. You got any more?

13 MR. WESTERFIELD: Yeah, the second point  
14 we'd like to make is another area of ambiguity.  
15 The issue concerns adjusting the baseline. And it  
16 comes up in two contexts, both in hydroelectric  
17 and geothermal.

18 The issue is essentially this: Does  
19 adjusting the baseline include the flexibility to  
20 change the allocation of baseline resources at a  
21 future date.

22 And the first context is hydroelectric  
23 on page 5 of the eligibility guidebook. And here  
24 you'll recall that small hydro facilities in  
25 operation before September 12, 2002, that were

1 owned or procured by that date are restricted to  
2 baseline or adjusting to baseline.

3 So our question is if a percentage  
4 allocation is made to the baseline for one year's  
5 APT, can that percentage be changed in a  
6 subsequent year. Our position would be yes, they  
7 should be able to be changed at a subsequent date.

8 The same question arises for geothermal.  
9 And it comes up on page 10. There the date of  
10 September 26, 1996, geothermal generation is  
11 eligible for establishing and adjusting the retail  
12 seller's baseline if located instate or satisfies  
13 out-of-state requirements.

14 So anything before that date would be  
15 allocated to baseline. So, again, the question is  
16 if a percentage allocation is made to the baseline  
17 for one year's APT, can that percentage be changed  
18 in a subsequent year.

19 And so the problem we face at  
20 PacifiCorp, as a multistate utility, is that we  
21 are trying to allocate our renewables that are  
22 available to us in various states according to  
23 what's called a revised protocol that has been  
24 hammered out in a very long process over a number  
25 of years.

1           And that revised protocol follows  
2     accounting procedures where we allocate the cost  
3     of these resources between states.

4           And we would like to comply with that  
5     revised protocol, and for example, only allocate a  
6     relatively small percentage of what would be  
7     eligible in the State of California to start with.  
8     But under that revised protocol, that may change  
9     because our accounting may change. And so we  
10    would like the flexibility to be able to  
11    reallocate to that baseline in a subsequent year.

12           That is part of a current proposal we  
13    have in front of the CPUC. It's pending before  
14    the Public Utilities Commission. No decision has  
15    been reached on that. And we're just a little  
16    concerned that the way it's written here might get  
17    in the way of that needed flexibility next year,  
18    the year after, and so forth.

19           PRESIDING MEMBER GEESMAN: Is this their  
20    call, as opposed to ours?

21           MR. WESTERFIELD: That is a very good  
22    question. I don't know. So, just to sort of  
23    protect ourselves we raise the issue with the  
24    Energy Commission today.

25           PRESIDING MEMBER GEESMAN: Okay.

1           MR. WESTERFIELD:  If it's their call,  
2       we're comfortable with that, because it's  
3       something we submitted to the CPUC, we'll brief it  
4       there.  But we don't want to find out later on  
5       that it was actually an Energy Commission call.

6           PRESIDING MEMBER GEESMAN:  But you don't  
7       feel that the existing language prejudices their  
8       decision, do you?

9           MR. WESTERFIELD:  No, it doesn't,  
10      because the existing language we say includes that  
11      phrase adjusting the baseline.

12           And so we just want to make sure that  
13      there's not a particular view of that language --

14           PRESIDING MEMBER GEESMAN:  Sure.

15           MR. WESTERFIELD:  -- that may be  
16      existing now that might get in the way later.

17           PRESIDING MEMBER GEESMAN:  Okay.  Have  
18      you submitted written comments to us, or do you  
19      plan to?

20           MR. WESTERFIELD:  We have not, and we  
21      can, if you'd like.

22           PRESIDING MEMBER GEESMAN:  At least make  
23      certain that your filings with the PUC on this  
24      topic are formally put into our record.

25           MR. WESTERFIELD:  And can that be done



1 at a later date than today?

2 PRESIDING MEMBER GEESMAN: Yeah.

3 MR. WESTERFIELD: Thank you very much.

4 PRESIDING MEMBER GEESMAN: Thanks, Bill.

5 Lenny Hochschild, Evolution Markets.

6 MR. HOCHSCHILD: Thanks, Commissioner  
7 Geesman. Evolution Markets is a renewable energy  
8 broker of renewable energy credits, as well as  
9 renewable energy emissions and other energy  
10 products.

11 And I don't want to belabor the point,  
12 but I just wanted to say that I support very much  
13 what I'm hearing from SDG&E as well as TURN. This  
14 isn't really Evolution speaking, this is the many  
15 developers that we've been talking with and  
16 working through the various California RFOs.

17 Time and time again they've taken a look  
18 at the existing language with respect to  
19 supplemental energy payments and they've come to  
20 the conclusion that as it stands, it's just not  
21 financeable, for all reasons we've gone through  
22 before.

23 And so I don't want to belabor the point  
24 but I think it's important to see that we actually  
25 have developers, utilities and TURN all on the

1 same page on this one.

2 Just quickly, the second piece that I  
3 would recommend, that I'm hearing, is the  
4 developers clearly spend a lot of at-risk money at  
5 the preproject finance level. And to extend that  
6 by going through the requirements for getting a  
7 PPA signed by and approved by the CPUC, and then  
8 trying to get separate approval from the CEC, to  
9 the extent that can be worked in parallel I would  
10 think most developers would appreciate that.

11 Thank you.

12 PRESIDING MEMBER GEESMAN: Thank you  
13 very much. And hopefully, the next time people  
14 look at this statute, they'll take the attitude  
15 that if we really wanted to promote these projects  
16 we probably wouldn't have so many overlapping and  
17 redundant governmental jurisdictions involved.

18 And I do think that the rule that ought  
19 to be followed in determining what role particular  
20 agencies play should be a value-added role. Don't  
21 include both of us just for the sake of including  
22 both of us. But if there's a particular value  
23 that one of us brings to a greater degree than the  
24 other, well, reflect that in your choice of  
25 jurisdictional entities written into the statute.

1                   And for those of you listening at home,  
2                   that's probably a good policy to follow in  
3                   transmission siting, as well.

4                   Les Guliassi, PG&E.

5                   MR. GULIASI: Can we have a few minutes  
6                   and --

7                   PRESIDING MEMBER GEESMAN: Sure.

8                   MR. GULIASI: -- come back a little  
9                   later.

10                  PRESIDING MEMBER GEESMAN: Jim Squeri,  
11                  Powerex.

12                  MR. SQUERI: Good afternoon,  
13                  Commissioner. I'm Jim Squeri on behalf of  
14                  Powerex. Powerex is the marketing subsidiary of  
15                  British Columbia Hydro and Power Authority. It  
16                  sells power at wholesale in the United States  
17                  pursuant to market-based rates approved by the  
18                  Federal Energy Regulatory Commission. And it  
19                  includes supply from competitively priced  
20                  qualifying renewable generation facilities,  
21                  including small hydro, biomass and landfill.

22                  Powerex would like to address an  
23                  ambiguity that it believes continues to exist with  
24                  respect to the delivery requirements as currently  
25                  set forth in the guidebook.

1           Powerex is concerned that the language  
2           in the eligibility guidebook may inadvertently  
3           restrict some out-of-state generators from  
4           participating in California's RPS program.

5           In our view, the language in the  
6           guidebook contemplates a standard model or vision  
7           of how the transactions will occur under the RPS  
8           program, but does not recognize that there may be  
9           different types of qualifying transactions than  
10          those contemplated under the standard model.

11          Specifically, the guidebook appears to  
12          primarily focus on direct transactions between the  
13          owner/operator of an RPS-eligible facility and  
14          retail sellers of electricity, who purchase the  
15          output from the RPS-eligible facility.

16          The guidebook, however, does not appear  
17          to contemplate, much less accommodate,  
18          transactions in which a third party has contracted  
19          for the supply generated by an RPS-eligible  
20          facility. And, in turn, contracts with a retail  
21          seller of electricity to provide supply from its  
22          portfolio of supply back by RPS-eligible  
23          facilities.

24          For example, the eligibility guidebook  
25          clearly contemplates that only a facility or a

1       retailer that is purchasing the output from that  
2       facility will be interested in certifying the  
3       facility as renewable or otherwise participating  
4       in the RPS process.

5               This model or approach does not take  
6       into account that a facility may have contracted  
7       to sell all of its output to a third party; and  
8       that the third party may be contractually entitled  
9       to apply to certify the facility on its behalf, or  
10      register the facility with the North American  
11      Electric Reliability Council.

12             In British Columbia many renewable  
13      facilities have entered into long-term contract to  
14      sell their energy and associated environmental  
15      attributes to BC Hydro. Powerex has the rights to  
16      market the excess capability of the BC Hydro  
17      system and the environmental attributes of these  
18      renewable facilities in excess of BC Hydro's  
19      domestic needs.

20             The energy transactions from these  
21      facilities are not scheduled or tagged within the  
22      British Columbia control area. This is consistent  
23      with the manner in which intra-control area  
24      transactions are handled by other control areas  
25      within the Western Electricity Coordinating

1 Council and within the Cal-ISO control area.

2 The NERC tagging requirement is  
3 applicable to interchange transactions which, by  
4 definition, are energy schedules between control  
5 areas. In our view the eligibility guidebook  
6 should allow the NERC tags, with the source being  
7 the control area where the renewable facility  
8 resides instead of the source being the facility.

9 This would allow renewable energy  
10 suppliers, such as Powerex, that have the rights  
11 to system-backed renewable generation to compete  
12 to provide renewable energy to California  
13 utilities.

14 Powerex believes the eligibility  
15 guidebook should be revised to reflect that the  
16 source on a NERC transaction tag can be the  
17 control area where the generating facility is  
18 located. In addition, we believe that to verify  
19 deliveries from out-of-state facilities the Energy  
20 Commission should compare the monthly generation  
21 data from the facility with the monthly NERC tag  
22 data scheduled from the source control area.

23 Thank you. Those are my comments.

24 PRESIDING MEMBER GEESMAN: Are you  
25 filing written comments with us, Jim?

1 MR. SQUERI: Yes.

2 PRESIDING MEMBER GEESMAN: Okay. Thank  
3 you. Ready, Les?

4 MR. GULIASI: Thank you, Commissioner.  
5 Good afternoon. Les Guliasi from PG&E.

6 I just have one preliminary matter and  
7 then I wanted to turn my time over to one of my  
8 colleagues, Claudia Greif.

9 We're going to file some written  
10 comments, but we're going to ask your indulgence  
11 if we can have a couple of extra days. The  
12 authors of the comments are actually in this room  
13 today, so it's sort of physically impossible for  
14 us to get the comments in by 5:00 p.m. today. But  
15 we'll have them ready for you on Wednesday if  
16 that's okay.

17 PRESIDING MEMBER GEESMAN: Okay.

18 MR. GULIASI: And with that, I'm going  
19 to give my time to Claudia Greif.

20 PRESIDING MEMBER GEESMAN: Okay.

21 MS. GREIF: Thank you. I'm Claudia  
22 Greif from PG&E. And some of the comments we have  
23 are pretty much similar to Powerex' comments, and  
24 a few additional ones.

25 They go more specifically to the out-of-

1 state delivery, and to either the timing or the  
2 location of such delivery.

3 So the first comment is right on  
4 Powerex' comment that at times we have encountered  
5 wholesalers which are willing to contract with  
6 generators and then sell to us. So therefore, we  
7 would like that this language be clarified so that  
8 it doesn't directly go from the generator to a  
9 retailer.

10 The other comment we have is that the  
11 guide seems to say in many places that the  
12 delivery should be to an instate hub, or to a  
13 substation. It then goes on to say that other  
14 arrangements can be made for out-of-state delivery  
15 as long as eventually the power makes it into the  
16 ISO.

17 However, we are concerned because there  
18 are points where the California ISO points which  
19 may not be hubs, and may not be substations.  
20 They're simply interconnection points. And  
21 bringing the power to such a point would then  
22 bring the power into California. But it's a  
23 little bit wider definition than what's currently  
24 contemplated.

25 A third comment is relating to the tags,



1 and much similar to what Powerex has said. We are  
2 concerned with the requirement that the tag  
3 identifies the generator because of a couple of  
4 reasons.

5 One is that the intermittent nature of  
6 some of these generators requires such energy to  
7 be banked by the wholesaler or by the entity at  
8 the other end, and then delivered to us at  
9 different times. And, indeed, the guide is  
10 talking about verification of deliveries be made  
11 on a monthly basis, which means that we're  
12 contemplating allowing the generation that happens  
13 anytime during the month to be delivered in a  
14 different pattern.

15 Well, having said that, we don't believe  
16 that the tag can go directly from the generator to  
17 the California ISO even if NERC allows for unit-  
18 specific tags.

19 So, however we do believe that we can  
20 show that the generation went from the generator  
21 to the wholesaler, and then eventually to us. So  
22 we would request removing this requirement of the  
23 NERC -- of a generator-specific tag.

24 The related comment is that --

25 PRESIDING MEMBER GEESMAN: Let me make

1       certain I understand. How would we then establish  
2       that the energy so generated did, in fact, meet  
3       the requirements of the RPS statute?

4               MS. GREIF: Well, we're thinking that we  
5       would show a contract either with a wholesaler or  
6       with a generator, that this generation is going  
7       into a system, somebody's system, for example,  
8       Powerex'. And then we could either have a tag  
9       from the generator to Powerex, and from Powerex to  
10      the California ISO, but not simultaneous.

11             Or at times we may not even have a tag  
12      from the generator to Powerex because in cases  
13      where the generator is located in the same control  
14      area as the wholesaler, those transactions do not  
15      get tagged normally.

16             PRESIDING MEMBER GEESMAN: So, how have  
17      you then satisfied the statutory requirements of  
18      California's renewable portfolio standard?

19             MS. GREIF: If we have, again, a  
20      contract with a generator and if we show meter  
21      data from this generator to equal the deliveries,  
22      the physical delivery of power actually made to  
23      the California ISO, we believe that that would  
24      trace back to the renewable energy.

25             PRESIDING MEMBER GEESMAN: Okay.

1 MS. GREIF: It's all predicated on the  
2 fact that we are turning, or allowing an  
3 intermittent resource to be turned into a more  
4 predictable and schedulable pattern, which we  
5 believe is the only way to schedule. To bring  
6 wind, for example, from out of state.

7 PRESIDING MEMBER GEESMAN: There are  
8 those that would suggest that you ought to turn  
9 your attention to wind from inside the state.

10 MS. GREIF: Well, that's too, yeah.

11 PRESIDING MEMBER GEESMAN: And I know  
12 you're trying to do that.

13 MS. GREIF: So, I think that about  
14 covers it.

15 PRESIDING MEMBER GEESMAN: Look forward  
16 to your written comments.

17 MS. GREIF: Thank you very much.

18 PRESIDING MEMBER GEESMAN: Aaron Jones,  
19 Golden State Power Co-op.

20 MR. JONES: Good afternoon, Chairman  
21 Geesman. My name is Aaron Jones; I'm Manager of  
22 the Golden State Power Co-op.

23 I have one fairly minor item for you.  
24 I've already provided written testimony. I  
25 thought I would read this in today.

1                   Concerning community choice aggregation.  
2       Over the last couple of years I've had discussions  
3       with local elected officials in southern  
4       California concerning whether or not they could  
5       use the Cooperative business model to do their  
6       community choice aggregation program. And I've  
7       always suggested that it should be quite okay to  
8       do any kind of a business model you want.

9                   Quite frequently they'll say, well, is  
10      there anything in the statute saying we can do a  
11      cooperative. And obviously there isn't anything  
12      in statute that says you shall do it this way or  
13      that way. It simply says cities and counties are  
14      going to be the aggregators. They're the ones who  
15      determine whether they'll have a program or not.

16                  So I suggested just for clarification  
17      purposes, just to clear it up once and for all,  
18      that there be just one sentence added to the  
19      community choice aggregation definition which  
20      clarifies that they could do the cooperative  
21      business model or any other legal business model  
22      that's appropriate in California.

23                  PRESIDING MEMBER GEESMAN: But don't you  
24      want the CPUC to sign off on that before you ask  
25      us to do it?

1                   MR. JONES: Well, your hearing was here  
2 today, and --

3                   PRESIDING MEMBER GEESMAN: Okay, but --

4                   MR. JONES: -- and I thought it was an  
5 appropriate time to do it.

6                   PRESIDING MEMBER GEESMAN: -- the  
7 community choice aggregation --

8                   MR. JONES: Actually, you're  
9 providing --

10                  PRESIDING MEMBER GEESMAN: -- program is  
11 a Public Utilities Commission --

12                  MR. JONES: But you do have the  
13 definition of a community choice aggregator, a  
14 revised definition in your overall program  
15 guidebook. So I thought it probably would be a  
16 good time to address it.

17                  PRESIDING MEMBER GEESMAN: Okay. Fair  
18 enough. Thank you.

19                  MR. JONES: Thank you.

20                  PRESIDING MEMBER GEESMAN: Jane  
21 Turnbull, League of Women Voters.

22                  MS. TURNBULL: Commissioner, Staff, I'm  
23 Jane Turnbull from the League of Women Voters of  
24 California. I just have a couple comments.

25                  The first being that the League

1 continues to support transparency. We think that,  
2 generally speaking, unless the information is  
3 proprietary, it is good to have as much of the  
4 negotiations in the public domain as possible and  
5 as quickly as possible.

6 PRESIDING MEMBER GEESMAN: Well, since  
7 we last heard from you, Ms. Turnbull, the  
8 Sacramento County Superior Court has agreed with  
9 you and agreed with us in that determination.

10 But I have to tell you, it's a fairly  
11 small crowd of supporters for transparency. I  
12 think the law does require that, and I think that  
13 we need to roll back a lot of the opaqueness that  
14 seems to have infected these procurement  
15 processes. But right now it's a rather small  
16 crowd of us advocating that. You've been a  
17 critical element in that for us.

18 MS. TURNBULL: I still have never  
19 understood least cost/best fit.

20 PRESIDING MEMBER GEESMAN: It's a bumper  
21 sticker as near as I can tell.

22 MS. TURNBULL: Okay.

23 PRESIDING MEMBER GEESMAN: When  
24 Commissioner Pfannenstiel and I hold our scoping  
25 session here in another few weeks on the next

1 cycle of the Integrated Energy Policy Report, I  
2 think we'll devote some special attention to  
3 learning more about least cost/best fit, and some  
4 of the utility planning methodologies which play  
5 such a critical role in these procurement  
6 decisions.

7 MS. TURNBULL: Thank you. My other  
8 comment has to do with the concerns that have been  
9 raised in terms of the multijurisdictional  
10 utilities.

11 I have been contacted by groups within  
12 their service territory in California that are  
13 interested in developing renewable resources.  
14 PG&E has said they're willing to wheel the power  
15 from that service area if they're able to do so.

16 But the transmission capability in those  
17 service territories is really rather limited.

18 In fact, I particularly have been  
19 contacted by the Klamath National Forest because  
20 that part of the state is really heavily forested.  
21 The fire hazard is enormous. They would like very  
22 much to find ways of developing biomass power  
23 there.

24 The fact that facilities that would be  
25 developed in those areas would not be eligible for

1 SEPs is something of a very real concern.

2 So it would be nice if there were some  
3 way developed to encourage the development of  
4 renewables in those service territories.

5 One third point. I have a question, and  
6 that is can you bring us up to date in terms of  
7 what the status is of the WREGIS/WECC development  
8 process?

9 PRESIDING MEMBER GEESMAN: Still in the  
10 state software procurement tunnel. The  
11 solicitation is in a negotiating framework where  
12 the Department of General Services, the lead  
13 bidder, and our staff and a procurement consultant  
14 that is advising our staff, are negotiating terms.  
15 And we'll simply have to see where that process  
16 ends up.

17 It's still calendared as producing a  
18 workable tracking system in early 2007.

19 MS. TURNBULL: Seven, um-hum.

20 PRESIDING MEMBER GEESMAN: So that's not  
21 changed in the last three to six months. But the  
22 process has not moved quite as quickly as the  
23 staff had hoped it would.

24 MS. TURNBULL: That's what I've heard.  
25 So, thank you.



1                   PRESIDING MEMBER GEESMAN: I'm out of  
2 blue cards. I want to go to the phones next. And  
3 then I'll ask again if there's anyone in the  
4 audience that cares to address us.

5                   And I think I have a name for people on  
6 the phone. Oh, I've got a number of people on the  
7 telephone. First one is Amy Smith, San Diego Gas  
8 and Power.

9                   UNIDENTIFIED SPEAKER: There's a yes  
10 marked next to the --

11                  PRESIDING MEMBER GEESMAN: Oh, okay.  
12 Gary Allen, Southern California Edison.

13                  MR. ALLEN: This is Gary Allen, Southern  
14 California Edison. Thank you very much for taking  
15 my comments. I must first apologize for not being  
16 there in person. I had a class scheduled for this  
17 morning that I was unable to maneuver out of. So  
18 I apologize for not being --

19                  PRESIDING MEMBER GEESMAN: Gary, could  
20 you speak up? We're having a hard time hearing  
21 everything you have to say.

22                  MR. ALLEN: Certainly, I'll do my best.  
23 Southern California Edison is concerned about  
24 three areas specifically that have had some  
25 mention prior.

1           The first Matt Freedman discussed from  
2       TURN, which is the ten-year limitation that does  
3       not address the 15- or 20-year term contracts that  
4       have been required for us to consider by the PUC.

5           And it would basically make a number of  
6       contracts nonviable. And we think that the state  
7       collectively needs to figure out a way to deal  
8       with those. Not necessarily the CEC, but we think  
9       there could be some accommodation at the CEC that  
10      would make that workable -- briefly.

11          The second two items both deal with the  
12      concern that we have for sharing the bids prices  
13      and the un-redacted advice letter filing. We  
14      think that -- we believe that sharing those bid  
15      prices will not make things -- will not reduce  
16      prices, but will increase prices in the long run.

17          And so we believe that that is not in  
18      the ratepayers' best interests, and we think that  
19      we need to find a way, a mechanism whereby we can  
20      provide that information to the CEC, which we  
21      recognize is usable and needed information, but  
22      not in the public domain.

23          And that deals with both the bid prices,  
24      the above MPR bid prices, and in my reading of the  
25      guidebook, it appears to suggest that even the

1 below MPR bid prices you would want bid by bid.

2 And then also in the advice letter  
3 filing there is what we believe to be a  
4 substantial confidential or trade secret  
5 information in there that we would not want  
6 divulged publicly.

7 And we have a number of concerns over  
8 your language in the guidebook dealing with that.

9 That concludes my comments, thank you  
10 very much.

11 PRESIDING MEMBER GEESMAN: Gary, you're  
12 going to be filing written comments?

13 MR. ALLEN: Yes, we will. We have some  
14 drafted. Again, I am not in the office to deal  
15 with these. So I might seek some indulgence,  
16 also, a day or two additional time to get those  
17 comments in. But we will plan to file some.

18 PRESIDING MEMBER GEESMAN: Okay. Thank  
19 you very much.

20 MR. ALLEN: Thank you.

21 PRESIDING MEMBER GEESMAN: Thom Fischer,  
22 Toll House Energy.

23 MR. FISCHER: Hello, are you there?

24 PRESIDING MEMBER GEESMAN: Yes.

25 MR. FISCHER: Okay, can you hear me all

1 right?

2 PRESIDING MEMBER GEESMAN: Yes, we can.

3 MR. FISCHER: Okay, good. I appreciate  
4 the ability to speak with you, and I apologize for  
5 not being there, myself. I wish I could. I'll be  
6 in Alaska tomorrow, I couldn't make this.

7 In your new proposed renewable portfolio  
8 standard eligibility guidebook, page 7, under RPS  
9 eligibility, that table 1. Under hydroelectric  
10 and MSW conversion you also require SEP  
11 requirements.

12 I think that must be an oversight  
13 because, you know, RPS eligibility is one issue;  
14 RPS and SEP eligibility is something different.  
15 And if you're under the MPR you would think that  
16 for hydro, in particular, all you'd need to do is  
17 meet the RPS eligibility, and not SEP. So we'd  
18 like to see that changed to delete the SEP  
19 requirement under RPS eligibility.

20 Under the new facilities program you  
21 added in prevailing wages. And in particular I  
22 guess I agree with, or I have the same concern  
23 that I believe Commissioner Geesman brought up,  
24 what do you do in a situation where you have an  
25 out-of-state project selling energy into

1 California.

2 And I don't believe that the California  
3 law with regard to prevailing wages goes outside  
4 the boundary of California. And so, I would  
5 suggest that -- in particular we have a project  
6 that was just approved by CEC in Montana for a  
7 hydropower project. So the issue is what is the  
8 prevailing wage in this remote area of California,  
9 according to California. And we're having a hard  
10 time getting our arms around that.

11 We're thinking that California didn't  
12 intend to regulate wages outside of its  
13 boundaries. And so, that prevailing wage  
14 requirement should be deleted for out-of-state  
15 facilities.

16 Or if they intend on something else,  
17 they need to say that we need to make out-of-state  
18 prevailing wage requirements to make it clear. We  
19 would prefer that there's not a requirement.

20 The other issue is under that there's  
21 also a mention of an apprenticeship program. And  
22 in some states that's code for making it that you  
23 have to be union. There's a couple states, and  
24 California is included, one of them that also has  
25 approved apprenticeship programs that are

1 nonunion. But if you had that same requirement  
2 for out of state, you could be forcing that  
3 facility to become union.

4 That's against executive order 13202.  
5 And, by the way, that seems to flip back and forth  
6 between presidents. When you have a democratic  
7 president they seem to pass a new executive order  
8 requiring all federally funded projects to be  
9 union. And then the next, as in this case,  
10 President Bush passed executive order 13202  
11 rescinding that and making it illegal to say that  
12 you have to be union to build a project with  
13 federal funds.

14 And in our particular case, and in a lot  
15 of people's cases, we're going to be getting  
16 funding and grant moneys from the federal  
17 government under the Energy Bill. And it's just  
18 something you might want to look at and see if  
19 that would conflict with that new executive order  
20 13202.

21 I would also agree with a lot of the  
22 other statements that were made with regard to the  
23 ten-year limitation on SEPs. And I'd also want to  
24 point out a couple more things where I'd like to  
25 see the Commission head.

1                   I haven't heard any feedback, so I  
2           assume I'm not just talking to myself. You guys  
3           can hear me?

4                   PRESIDING MEMBER GEESMAN: No, we're  
5           listening attentively.

6                   MR. FISCHER: Okay. I would like -- it  
7           looks like there's going to be a national standard  
8           adopted, which is the Green-e standard, which I'm  
9           reading about. And I'd like to see the CEC move  
10          toward that, at least for the hydro.

11                  Green-e had a standard that was for  
12          hydro was 30 megawatts maximum, which is  
13          coincidentally the Green-e standard. But Green-e  
14          is changing that to say that once you're  
15          acceptable by LIHI, the Low Impact Hydro  
16          Institute, that that also will be eligible to be  
17          in the renewable portfolio standard.

18                  I'd like to see that happen. There's a  
19          lot of projects that are greater than 30 megawatts  
20          that have less impact than projects that are 1  
21          megawatt in size, for instance.

22                  With regard to one of the things I'd  
23          like to see happen, I want to recognize that most  
24          of the hydropower left that's not developed is in  
25          British Columbia and Alaska. And we're working on

1 a program right now to connect southeast Alaska to  
2 Canada. And we would like to share the renewable  
3 resources in Alaska with California.

4 That new certification that Green-e is  
5 proposing for a national standard would benefit  
6 both Alaska and California.

7 Another thing is one of the things I'd  
8 like to see is trades being allowed. If we sell  
9 energy from southeast Alaska in the future to  
10 California, that we would be able to do a  
11 transaction with say Powerex in which we deliver  
12 power to Powerex and we trade it for energy that  
13 they deliver from their downstream benefits  
14 program, and deliver it to you. The energy would  
15 go from Alaska and be counted into California.

16 You could even do the same time of day  
17 delivery. It's just that instead of having to pay  
18 the wheeling fees and the wheeling losses from  
19 Alaska to California, if we could do the trade,  
20 then everybody benefits. Canada would benefit  
21 from the trade because the energy would go up  
22 where they need it, but at the same time that same  
23 amount of energy would be delivered to California  
24 through their hydro downstream benefits that are  
25 actually delivered on Bonneville's system in



1 Washington State.

2 And therefore the cost of power from  
3 Alaska to California would be substantially  
4 cheaper. And it would be a benefit to California.

5 Lastly, I'd like to applaud California;  
6 a lot of these RPS standards are being pushed  
7 forward through environmental reasons. But when  
8 you buy a renewable you're buying your future.  
9 And so we can tell you what the cost of power from  
10 a hydropower resource is, or renewable resources  
11 are 30 years from now, but you cannot say what the  
12 cost of power from a thermal plant is five years  
13 from now.

14 So, on an economic view, I think  
15 California's brilliant in this RPS, in their  
16 renewable program.

17 PRESIDING MEMBER GEESMAN: Thank you,  
18 Mr. Fischer. Keoni Almeiba from the California  
19 ISO.

20 MR. ALMEIBA: Good afternoon. This is  
21 Keoni Almeiba with the California ISO. I  
22 apologized that the California ISO is not there  
23 presently. We had some scheduling conflicts. But  
24 Dave Hawkins is on point here, and we'll be  
25 working with the CEC on this.

1                   We don't have any formal comments, but I  
2       do want to indicate that we are in support of  
3       system resource for the delivery requirements.  
4       And also we'd like to support what PG&E and  
5       Powerex were saying with regards to that aspect  
6       for the delivery requirements for system  
7       resources.

8                   And that has to go to the generator-  
9       specific tag. As you may be aware, that energy  
10      coming into California isn't tied to a specific  
11      generator; it's a combination of generators that  
12      come in as a system resource.

13                  And until the WREGIS is in place I think  
14      the delivery requirements of a system resource  
15      would work.

16                  Also, we're also in support of the  
17      concept of banking renewables from outside the  
18      ISO. So, renewables that are generated during  
19      offpeak hours can then, in turn, be delivered  
20      onpeak. So, in essence, from a control area  
21      standpoint, that helps us with regards to the  
22      shaping the delivery of the energy.

23                  So that's all I had to say.

24                  PRESIDING MEMBER GEESMAN: Thank you,  
25      Mr. Almeiba.

1           I think that exhausts our comments from  
2     the telephone. Is there anybody else in the  
3     audience that cares to address us? Mark.

4           MR. SKOWRONSKI: Mark Skowronski,  
5     Solargenix. Commissioner, there were several  
6     issues of concern, I guess, that I think the  
7     Commission and the staff all agree with.

8           Three primary ones is payment of  
9     contracts that exceed ten years; out-of-state  
10    delivery, how that's treated with respect to  
11    prevailing wage; and SEP funding guarantees, at  
12    least guarantees as perceived by the lender.

13          What's the schedule for resolution and  
14    decision by the Commission?

15          PRESIDING MEMBER GEESMAN: Well, let me  
16    address those in order. The first, the ten-year  
17    versus 20-year contract. Seems to me the  
18    Commission has a choice. We can either attempt to  
19    address those preemptively in our guidebooks. Or  
20    we can wait until we actually have an SEP  
21    application in front of us that presents that  
22    issue.

23          In the past we've preferred the latter  
24    approach because it does tend to maximize our  
25    discretion, and we do have the view that we

1       probably avoid unintended consequences when we're  
2       acting on real applications as opposed to  
3       addressing questions in the abstract.

4               But on this one, I think we do have a  
5       choice and we'll simply have to determine whether  
6       to address it in the guidelines, or simply to wait  
7       and see what a real application looks like.

8               The second one with respect to out-of-  
9       state delivery, I think you can expect that we  
10      will address that in the guidelines. You know, we  
11      may not address it to everyone's satisfaction and  
12      I do want to carefully look over the written  
13      comments filed as it relates to the discussion  
14      that Powerex and PG&E and the ISO all seem to be  
15      pointing in the direction of.

16              And your third item was the security of  
17      SEPs. It would seem to me, from this discussion,  
18      and from Mr. Herrera's advice at the beginning of  
19      the meeting in response to my question, that that  
20      requires a statutory fix.

21              Someone, I believe Mr. Freedman,  
22      suggested that SB-1250, the reauthorization of the  
23      PIER program and the Renewable Energy Trust Fund  
24      was probably an appropriate vehicle for that. And  
25      I'll take that up with our Legislative Committee

1 and see if we can come up with some language that  
2 could be amended into SB-1250.

3 Assuming that that legislation were to  
4 pass, it probably would go into effect January 1.  
5 So it's a question that is going to take a little  
6 while to resolve. For better or for worse.

7 The gentleman at SDG&E said that they  
8 have made a filing for an SEP request. I've read  
9 in the newspaper PG&E has a project that will also  
10 make a request for SEPs. And I don't know what  
11 our timeframe for considering those applications  
12 is.

13 MR. SKOWRONSKI: Thank you.

14 PRESIDING MEMBER GEESMAN: Other  
15 questions? Yes, sir, come on up.

16 MR. HOCHSCHILD: I'll ask the question,  
17 I'm not sure if it's the right venue. But  
18 basically it's the issue of a CEC-certified  
19 electricity, as opposed to CEC-certifiable  
20 electricity.

21 And my understanding is -- and the  
22 reason just to back up why I'm asking this  
23 question, is I have a customer who is a  
24 wholesaler. They, in turn, are looking to supply  
25 renewable energy to their customer for the

1 electricity to be retired.

2 They are trying to buy -- initially what  
3 they were trying to buy -- and their customer is a  
4 municipality, not an IOU. They were trying to buy  
5 CEC-certified electricity. We found out that that  
6 was not possible because for something to be CEC-  
7 certified, it actually had to be sold and  
8 purchased by an investor-owned utility.

9 So the question is can we move forward  
10 with precertification under the new guideline. Is  
11 that something that's being adopted and will be  
12 discussed on April 26th at this meeting?

13 PRESIDING MEMBER GEESMAN: Heather?

14 MS. RAITT: That's one of the proposed  
15 changes that I talked about for the  
16 precertification for out-of-state facilities, that  
17 they cannot be certified because of the  
18 requirement that you mentioned, that they would  
19 have to sell to a retail seller. And that  
20 publicly owned utility would not qualify.

21 But in those cases we can authorize  
22 precertification. What we've stated in the  
23 guidebook, then we can also follow up with a  
24 letter saying it would be otherwise eligible for  
25 certification except for that provision, if that

1 applies.

2 MR. HOCHSCHILD: Okay, and that decision  
3 will come on April 26th?

4 MS. RAITT: It's part of the proposed  
5 changes --

6 MR. HOCHSCHILD: Part of the proposed  
7 changes.

8 MS. RAITT: -- for consideration for  
9 April 26th.

10 MR. HOCHSCHILD: Okay. So will we find  
11 out on April 26th that that's going to happen?

12 PRESIDING MEMBER GEESMAN: Yeah,  
13 assuming that the Commission sticks to that  
14 schedule. The current plan is that we will take  
15 the matter up on the 26th.

16 MR. HOCHSCHILD: Okay, thank you.

17 PRESIDING MEMBER GEESMAN: Other  
18 questions? Comments? Observations?

19 Great. Thank you all very much. I look  
20 forward to seeing the written comments.

21 (Whereupon, at 2:30 p.m., the Committee  
22 workshop was adjourned.)

23 --oOo--

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## CERTIFICATE OF REPORTER

I, SEAN WILLARD, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Committee Workshop; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said workshop, nor in any way interested in outcome of said workshop.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of April, 2006.

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